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8  
9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN JOSE DIVISION**

12 **LOUIS FLOYD**, individually and on behalf  
13 of all others similarly situated,

14 Plaintiff,

15 v.

16 **SARATOGA DIAGNOSTICS, INC.**, a  
17 California Corporation, and **THOMAS**  
18 **PALLONE**, an individual,

19 Defendant.

Case No. 5:20-cv-01520-LHK

**STATUS REPORT AND REQUEST TO  
VACATE CASE MANAGEMENT  
CONFERENCE**

20 Plaintiff Louis Floyd (“Floyd” or “Plaintiff”) respectfully provides the following status  
21 report and requests that the Court vacate the case management conference scheduled for February  
22 3, 2021, at 2:00 p.m. In support of this request, Plaintiff states as follows:

23 1. Plaintiff filed his Class Action Complaint (“Complaint”) on March 1, 2020, Saratoga  
24 Diagnostics, Inc. (“Saratoga”) and Thomas Pallone (“Pallone”) (collectively “Defendants”). (Dkt.  
25 1.)

26 2. On March 2, 2020 the Court issued summonses directed to Defendants. (Dkt. 5.)  
27 Thereafter, Plaintiff arranged for both Defendants to be served via process server.

28 3. To date, Plaintiff has attempted service on both Defendants on nine (9) occasions as  
well as additional attempt via mail.

4. On June 4, 2020, the Court continued the previously scheduled case management

1 conference to February 3, 2021, at 2:00 p.m. (Dkt. 34.)

2 5. On July 10, 2020, based on his inability to effectuate service, Plaintiff filed a  
3 Renewed Motion for Order Regarding Alternative Service on Defendants. (Dkt. 23.)

4 6. On August 5, 2020, this Court granted Plaintiff's Renewed Motion for Order  
5 Regarding Alternative Service. (Dkt. 24.) In doing so, the Court deemed service on Pallone  
6 sufficient on July 13, 2020. (*Id.*) Further, the Court permitted Plaintiff to serve Defendant Saratoga  
7 via the California Secretary of State pursuant to California Corporations Code Section 1702(a). (*Id.*)

8 7. Plaintiff served Defendant Saratoga via the California Secretary of State on August  
9 17, 2020 (dkt. 27), placing its deadline to respond to Plaintiff's Complaint on September 8, 2020.

10 8. Neither defendant appeared nor responded to Plaintiff's Complaint in any fashion.

11 9. On October 14, 2020, the Clerk of Court entered default against Defendant Saratoga  
12 (dkt. 29) and Pallone (dkt. 33).

13 10. On November 25, 2020, Plaintiff filed his Motion for Class Certification and  
14 Request for Leave to Conduct Discovery (the "Motion"). (Dkt. 35.)

15 11. The Court scheduled a hearing on the Motion for April 1, 2021, at 1:30 p.m.

16 12. At this time, neither Defendant has appeared in this case and the sole pending  
17 deadline on the docket is the hearing on the Motion.

18 13. Consequently, Plaintiff respectfully requests that the Court vacate the Case  
19 Management Conference scheduled for February 3, 2021.

20 14. Therefore, Plaintiff respectfully requests that the Court vacate the Case Management  
21 Conference and for such additional relief as the Court deems necessary and just.

22  
23 Respectfully submitted,

24 Dated: January 27, 2021

**LOUIS FLOYD**, individually and on behalf of all  
others similarly situated,

25  
26 By: /s/Taylor T. Smith  
One of Plaintiff's Attorneys

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15 *Counsel for Plaintiff and Putative Class*  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above titled document was served upon counsel of record by filing such papers via the Court's ECF system on January 27, 2021.

/s/ Taylor T. Smith